

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

Civil Action No.: 5:21-CV-00338-M

JAMII ERWAY,

Plaintiff,

v.

UNITED STATES TRANSPORTATION
SECURITY ADMINISTRATION,
UNITED STATES OF AMERICA, and
JANE DOE, *an Employee of the United
States Transportation Security
Administration*,

Defendants.

ORDER TO SHOW CAUSE

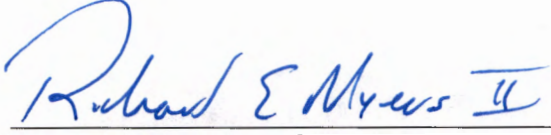
In the operative Complaint, Plaintiff alleges Count One against Defendant “JANE DOE, an Employee of the United States Transportation Security Administration.” Compl., DE 1. The docket in this case does not reflect that Jane Doe was served with process within the 90-day period required by Rule 4 of the Federal Rules of Civil Procedure. *See* Fed. R. Civ. P. 4(e), -(m). The docket also does not indicate that Plaintiff has moved the court to extend the deadline to effectuate service.¹ According to Rule 4, the court must dismiss Plaintiff’s claims against Jane Doe for this reason or order that service be effectuated within a specified time. Fed. R. Civ. P. 4(m).

The Fourth Circuit Court of Appeals has instructed that “[a]s indicated by the plain language of Rule 4(m), notice to the plaintiff must be given prior to a *sua sponte* dismissal.” *Gittens v. Equifax*, 687 F. App’x 299 (4th Cir. 2017) (quoting *Thompson v. Maldonado*, 309 F.3d

¹ The court notes that, on December 7, 2021, Magistrate Judge Swank issued an order staying discovery in this action (DE 15); however, nothing in that order or on the case docket indicates the tolling or extension of the Rule 4(m) deadline.

107, 110 (2d Cir. 2002)). Therefore, the court DIRECTS Plaintiff to effectuate service on Jane Doe **on or before September 15, 2022**, or to provide good cause for why service cannot be made within the designated time period. Failure to obtain service or a waiver of service within this time period will result in dismissal of this action against Jane Doe.

SO ORDERED this 15th day of August, 2022.



RICHARD E. MYERS II
CHIEF UNITED STATES DISTRICT JUDGE